

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	
)	
Access Charge Reform)	CC Docket No. 96-262
)	

COMMENTS OF PUERTO RICO TELEPHONE COMPANY

Puerto Rico Telephone Company, Inc. ("PRTC") hereby comments on issues raised in the Further Notice of Proposed Rulemaking released in the above-referenced proceeding on May 28, 1999.¹

I. INTRODUCTION

PRTC has been an active participant in the universal service proceeding since its inception following the adoption of Section 254 as part of the Telecommunications Act of 1996. Prior to and since that time, the federal universal service program has been an integral part of PRTC's efforts to provide affordable service throughout Puerto Rico, where just twenty-five years ago the telephone service penetration rate was only 25 percent. As a result of PRTC's efforts to keep rate increases to a minimum and aggressive network investment in the intervening years, the telephone penetration rate has almost tripled. While PRTC sees this feat as an

¹ Federal-State Joint Board on Universal Service and Access Charge Reform, Seventh Report and Order and Thirteenth Order on Reconsideration in CC Docket No. 96-45, Fourth Report and Order in CC Docket No. 96-262, and Further Notice of Proposed Rulemaking, FCC 99-119 (rel. May 28, 1999) (hereinafter referred to as "Seventh Report and Order" (¶¶ 1-94) or "Further Notice of Proposed Rulemaking" (¶¶ 95-135)); Order, DA 99-1277 (Com. Car. Bur., rel. June 29, 1999) (revising comment date).

accomplishment, it is not the end goal. Perhaps more than any state, the ongoing efforts in Puerto Rico to achieve universal service best illustrate the need at least to maintain current levels of support until affordable service can be achieved and maintained island-wide.

In its most recent universal service Order, the Commission reiterated its prior conclusion that current rate levels are affordable,² a conclusion primarily based on existing subscribership levels.³ The Commission again has affirmed the nexus between affordability and telephone service penetration, stating that “since March 1989, at least 93 percent of all households in the United States have had telephone service, and as of November 1998, the subscribership rate was 94.2 percent.”⁴ On this premise, the Commission adopted the Joint Board’s recommendation that “current conditions do not necessitate substantial increases in federal support for local rates.”⁵ Puerto Rico, however, does not fit this affordability analysis. The island-wide subscribership level is currently 75 percent, such that based on the Commission’s logic, support for Puerto Rico should be increased until the subscribership level reflects an indicia of affordability like that in the mainland United States. On this basis, implementation of the hold harmless mechanism -- at least to ensure that current support levels are not reduced -- is of utmost importance to Puerto Rico and to PRTC.

Any deviation from this approach would result in rate shock that would cause some current subscribers to drop off the network and would be a disincentive for the network

² Seventh Report and Order at ¶ 30.

³ Id. at ¶ 36 (citing First Recommended Decision, 12 FCC Rcd 87, 151-52 (¶ 127) (Jt Bd 1996)).

⁴ Id. at ¶ 38 (citing Report, Telephone Subscribership in the United States, Table 1 (Com. Car. Bur., rel. February 18, 1999)).

⁵ Id. at ¶ 69.

investment needed to build-out to some areas where plant installation would be otherwise cost-prohibitive. Although the Commission intends to initiate a separate proceeding to investigate line extension issues⁶ and low income support is available to address affordability to a certain degree, these stop-gap measures can only be considered solutions in and of themselves in the context of a 90-plus percent telephone service penetration rate. When the average rate remains at 75 percent in Puerto Rico, the linkage between federal high cost support, affordability and network investment cannot be underestimated or ignored. Thus, PRTC's comments herein consistently support one common theme: that implementation of the revised or any future universal service program should not lead to decreases in support for universal service in Puerto Rico.

II. METHODOLOGY ISSUES

A. National Benchmark

The Commission has agreed to use a national cost benchmark, rather than a revenue benchmark. The use of a cost benchmark instead of a revenue benchmark conceptually makes sense, because under the USF methodology, a national estimated cost is being compared to a local estimated cost. Under the previous methodology, a national average revenue would have been compared to a local estimated cost, which appears to be an "apples to oranges" comparison. Now that the Commission has adopted this change, it seeks comment on the relationship between the cost estimated by the model and the support to be provided to a particular carrier.

PRTC cannot respond to this or any similar request for comment related to model design or outputs, because it has no practical basis upon which to address these issues. While most carriers may be somewhat hindered in their ability to respond because the results of the cost

⁶ Id. at ¶ 92.

proxy model have not yet been verified, PRTC has no basis upon which to form any judgment, because no results are available for Puerto Rico in any recent version of the model. The persistent lack of customer location data has made it virtually impossible for PRTC to participate in the forward-looking model effort in any substantive way, making it impossible to test assumptions with respect to any of the other model modules.⁷

For this reason, PRTC is particularly concerned by any implication in the Further Notice that the hold harmless provision is somehow related to the establishment of the specific cost benchmark levels.⁸ The Commission has articulated a preference for maintaining the total fund size at current levels, and it is conceivable that efforts to achieve this goal will include the selection of cost benchmarks that tend to drive the forward-looking cost to produce current support levels. However, the selection of cost benchmarks should have no effect on the operation of the hold harmless provision, including the hold harmless amount.

B. Area Over Which Costs Should Be Averaged

The Commission seeks comment regarding the area or level at which forward-looking costs and the national average cost would be compared, suggesting: (1) the wire center level; (2) the unbundled network element (“UNE”) cost zone level; or (3) the study area level.⁹ PRTC agrees with the Commission’s concern that providing universal support to be shared across an

⁷ PRTC notes that this problem is not necessarily solved by developing this elusive data, because the primary set of geocode data has not been provided where available for the evaluation of underlying methodologies, algorithms, and assumptions.

⁸ See Further Notice of Proposed Rulemaking at ¶ 100 (“We encourage commenters to consider and discuss the interaction between specific cost benchmark levels and the precise operation of the hold-harmless provision.”).

⁹ Id. at ¶ 102.

entire study area provides an opportunity and incentive for arbitrage.¹⁰ Indeed, even three geographic zones may not provide the ability to target support sufficiently to the high cost areas in a region. Therefore, PRTC supports using the cost proxy model to target support on a wire center basis.

A review of service penetration rates across the island of Puerto Rico, by municipios¹¹ illustrates the need to direct universal service support. For example, the service penetration rate in the San Juan area is close to 85%, while in Guánica, it is 52% and in Aguirre it is 52%. These differences across the island could be best addressed if universal service funding is targeted to those areas where service is either currently not available or not affordable. It bears reiterating, however, that even the highest penetration rate in the San Juan area is almost 10 percent lower than the national average, demonstrating that universal service remains an issue for all of Puerto Rico.

III. DETERMINING A STATE'S ABILITY TO SUPPORT HIGH COST AREAS

As part of the revised universal service methodology, the Commission expects to assess uniformly a state's ability to support internally its universal service needs. This approach replaces the 75/25 percent split.¹² Attempting to quantify a blanket "state's ability to pay" ignores the fact that states are not similarly situated in their ability to provide explicit or implicit universal service support. In Puerto Rico, for example, the low penetration rate may actually

¹⁰ See *id.* at ¶ 105.

¹¹ A Puerto Rico municipio is comparable to a state county.

¹² Under the new methodology, it is possible that a state could receive no support at all if the state's ability to pay is greater than or equal to the per line support for that state. Under this scenario, such a state would actually be worse off than under the 75/25 split, which would have provided for one-fourth of the identified need for support.

reduce the ability for the company or the Telecommunications Regulatory Board of Puerto Rico to ensure affordable rates through internal rate designs. With fewer subscribers on the network, fewer options for rate designs in support of universal service may exist.

In addition, Puerto Rico also faces greater economic constraints than many other states, demonstrating a need for more aggressive rate designs to generate support than are possible to ensure affordable rates. In 1997, the average per capita income in Puerto Rico was \$8,509.00¹³ while the national average was \$25,288,¹⁴ almost three times the Puerto Rico average. Similarly, recent unemployment figures show an unemployment rate of 12.8 percent in Puerto Rico¹⁵ while the national unemployment rate remained one-third of that, 4.3 percent.¹⁶ Taking into account the low telephone service penetration rate and the unfavorable economic comparison, an unqualified or unweighted assignment of a uniform ability among states to ensure affordable rates simply is not practical. On the other hand, PRTC recognizes the complications that could arise from an attempt by the Commission to quantify among states differing capabilities to ensure affordable rates. Thus, the most efficacious approach in the instance of Puerto Rico would be to adhere to the hold harmless approach in lieu of the proxy model methodology. Indeed, this is a necessary approach for Puerto Rico, for which there is still no model result to assess or analyze.

¹³ "Puerto Rico in Figures," Government Development Bank of Puerto Rico (1997).

¹⁴ "1997 Local Area Personal Income," Bureau of Economic Analysis News Release (May 7, 1999).

¹⁵ Puerto Rico Department of Labor, as of January 1999 (April, 1999).

¹⁶ "The Employment Situation: January 1999," CPS Publication (February 5, 1999).

IV. HOLD-HARMLESS AND PORTABILITY OF SUPPORT

PRTC is a strongly supports the hold harmless approach, as reflected in its comments and replies filed in response to the Joint Board's Second Recommended Decision.¹⁷ With respect to the implementation of hold harmless, the Commission has asked whether hold harmless should be implemented on a state-by-state or a carrier-by-carrier approach and whether the hold harmless or forward-looking per line support should be made available to a competitive carrier that has won a supported customer.¹⁸

In the FNPRM and in a subsequent Public Notice, both the Commission and the Common Carrier Bureau have readily acknowledged that the state-by-state and carrier-by-carrier approaches could provide different support results.¹⁹ However, PRTC believes that this difference would be minimized by targeting the support on a wire center basis. In this way, applying line count proportions to divide support among carriers providing service in a particular wire center area will be less distortive if limited to a particular wire center where the carriers provide service. That is, if a carrier provides service to one-third of the total lines in a state, but none of those lines are in targeted study areas, then the carrier should receive no universal service support. If another carrier provides service to one-quarter of the lines in a state, but serves one-half of the lines in a wire center, then that carrier should receive one-half of the

¹⁷ PRTC notes that Commission action with regard to its insular area proposal remains pending. Although "hold harmless" addresses some of the same concerns as PRTC's insular area proposal, PRTC reiterates that, like rural carriers, carriers serving insular areas should not be converted to the proxy model methodology until it can be determined that such methodology accurately predicts the cost of serving the area.

¹⁸ Further Notice of Proposed Rulemaking at ¶¶ 117-21 and 122.

¹⁹ Id. at ¶¶ 118-19; "Common Carrier Bureau Releases Revised Spreadsheet for Estimating Universal Service Support Using Proposed Input Values in the Forward-Looking Cost Model," CC Docket Nos. 96-45, 97-160, Public Notice, DA 99-1322 (rel. July 2, 1999).

support designated for that wire center. These ratios may change from year to year as carriers win and lose customers and the portable support would thus change accordingly.

This approach further requires that when the hold harmless support amount is issued, a competitive carrier that wins a customer should be awarded funding based on the forward-looking cost, rather than the hold harmless amount.²⁰ The incumbent carrier would then receive the difference between the forward-looking amount and the hold harmless amount, as contemplated in the First Report and Order. In that order, the Commission concluded that the incumbent carrier would receive any universal service amount in excess of the competitor's UNE loop rate.²¹ With the adoption of hold harmless, the Commission can implement this earlier finding by providing the competitor with the forward-looking amount (estimating the total network support) and any additional hold harmless support to the incumbent, consistent with the Commission's finding that "[t]he remainder of the support associated with the element, if any, will go with the ILEC to cover the ILEC's economic costs of providing that element in the service area for universal service support."²² Moreover, support to a competitor based on the forward looking cost is the only result that makes sense for Puerto Rico, where the hold harmless amount includes long-term support.

²⁰ If the forward-looking cost has not been developed, then the UNE loop rate could be used in its place.

²¹ Federal-State Joint Board on Universal Service, Report and Order, 12 FCC Rcd 8776, 8933 (¶ 287) (1997) ("First Report and Order"), appeal pending sub nom. Texas Office of Pub. Util. Counsel v. FCC, No. 97-60421 (5th Cir.).

²² Id.

V. ADJUSTING INTERSTATE ACCESS CHARGES TO ACCOUNT FOR EXPLICIT SUPPORT

The Commission seeks comments addressing how to reduce interstate access charges to account for explicit, high-cost, interstate universal service support, suggesting that rate of return local exchange carriers should apply “additional interstate explicit high-cost support revenues” to reduce the carrier common line charge.²³ In considering how to apply any “additional interstate explicit high-cost support revenues,” the Commission should clarify what the “additional” support actually is. A reduction in interstate access that corresponds with USF support is only appropriate when USF is provided to replace identifiable implicit interstate access charge support. Support that is traceable to the former high cost loop support is non-jurisdictional and should continue to be available to support intrastate rates. If such support were required to be applied for the reduction of interstate access charges, ratepayers in Puerto Rico could experience rate shock associated with the elimination of \$48 million in USF support.

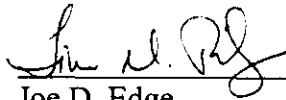
On this basis, the application of “additional” support would not arise for any carrier receiving support available through the hold harmless approach. For example, PRTC, which expects to receive support consistent with the hold harmless approach, would continue to apply this support amount in the same manner as it has done in the past. Assuming that the model still does not include Puerto Rico data upon implementation or it predicts an unreasonably low cost of providing service in Puerto Rico like previous models, PRTC would not receive any “additional” support under the forward-looking model, but instead would receive a stable amount consistent with the hold harmless approach.

²³ Further Notice of Proposed Rulemaking at ¶¶ 123, 134.

VI. CONCLUSION

Based on the foregoing, PRTC urges the Commission to require that federal universal service support be awarded and applied on a wire center basis. This approach will best target support to high cost areas and will help reduce any distortion between implementing hold harmless on a state-by-state or carrier-by-carrier basis. With respect to implementing the cost proxy methodology and assessing the states' ability to ensure affordable rates, the Commission should consider whether all states can be assigned the same capability, considering differing telephone penetration rates and economic conditions. Finally, a carrier should be required to apply federal universal support to interstate access revenue requirements only if that carrier receives support in addition to the amount received under the current universal service methodology. Otherwise, the goals of universal service will be undermined by diverting support for intrastate rates to interstate access charges.

Respectfully submitted,



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Dated: July 23, 1999

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